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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,251	08/28/2001	Dwip N. Banerjee	AUS920010507US1	5907
7590	11/25/2003			EXAMINER
Duke W. Yee Carstens, Yee & Cahoon, LLP P.O. Box 802334 Dallas, TX 75380			HARRIS, CHANDA L	
			ART UNIT	PAPER NUMBER
			3714	7
DATE MAILED: 11/25/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/941,251	BANERJEE ET AL. <i>JW</i>
	Examiner Chanda L. Harris	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 05 September 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-50 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-50 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Status of Claims***

In response to the Amendment filed on 9/5/03, Claims 1-50 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6-22, 29-45, and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 6 recites the limitation "the test question" in line 6. There is insufficient antecedent basis for this limitation in the claim.
- Claim 29 recites the limitation "the test question" in line 8. There is insufficient antecedent basis for this limitation in the claim.
- Claim 46 recites the limitation "the test question" in line 7. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 6-10, 12-18, 29-33, 35-41 and 46, are rejected under 35 U.S.C. 102(e) as being anticipated by Greene et al. (US 2002/0172931).**

1. [Claims 6,29, 46]: Regarding Claims 6,29, and 46, Greene discloses administering a test to a remotely located user of a client device; receiving test question timing data (e.g. time stamp information for answer input) from the client device, the test question timing data representing an elapsed time used by the remotely located user in attempting to answer the test question; and outputting the test question timing data to a proctor device (i.e. proctor workstation) such that the proctor device may monitor the elapsed time in attempting to answer the test question for the remotely located user.

See p.4, [0041] and [0043]. Greene discloses a controller; and at least one interface coupled to the controller, wherein the controller administers a test to a remotely located user of a client device via the at least one interface. See Claim 21. Greene discloses a computer program product. See Claim 41.

2. [Claim 7]: Regarding Claim 7, Greene discloses billing a test developer for administration of the test to the remotely located user. See Claim 2.

3. [Claim 8]: Regarding Claim 8, Greene discloses billing the remotely located user for administration of the test. See Claim 3.

4. [Claim 9]: Regarding Claim 9, Greene discloses sending an instant message to the client device. See Claim 6.

5. [Claim 10]: Regarding Claim 10, Greene discloses receiving an instant message from the client device. See Claim 7.
6. [Claim 12]: Regarding Claim 12, Greene discloses storing a score for the test in a permanent storage. See p.4, [0040].
7. [Claim 13]: Regarding Claim 13, Greene discloses wherein the test is developed by a test developer and wherein the method is implemented by a test administration system that is operated by a different entity from the test developer. See Claim 10.
8. [Claim 14]: Regarding Claim 14, Greene discloses receiving a request for administration of the test to the remotely located user; establishing a session identification for the administration of the test to the remotely located user; and correlating the test question timing data to the administration of the test to the remotely located user based on the session identification. See Claim 11.
9. [Claim 15]: Regarding Claim 15, Greene discloses wherein the session identification includes a proctor device identifier, and wherein outputting the test question timing data to the proctor device is based on the proctor device identifier. See Claim 12.
10. [Claim 16]: Regarding Claim 16, Greene discloses storing an indicator of a number of test takers for the test; and billing a test developer of the test based on the number of test takers for the test. See Claim 13.
11. [Claims 17,40]: Regarding Claims 17 and 40, Greene discloses monitoring (comparing) the test question timing data for evidence of greater than expected response time to the test question, wherein outputting the test question timing data to a

proctor device (i.e. session timing device) is performed in response to determining that evidence of greater than expected response time to the test question is present (inherent). See p.4, [0041].

12. [Claims 18,41]: Regarding Claims 18 and 41, Greene discloses wherein monitoring the test question timing data for evidence of greater than expected response time to the test question includes comparing previously received test question timing data (i.e. total time length of the administered test) to currently received test question timing data (i.e. currently elapsed time) to determine if a change in the test question timing data indicates evidence of greater than expected response time to the test question (inherent). See p.4, [0041].

13. [Claim 30]: Regarding Claim 30, Greene discloses wherein the controller bills a test developer for administration of the test to the remotely located user. See Claim 22.

14. [Claim 31]: Regarding Claim 31, Greene discloses wherein the controller bills the remotely located user for administration of the test. See Claim 23.

15. [Claim 32]: Regarding Claim 32, Greene discloses wherein the controller sends an instant message to the client device via the at least one interface. See Claim 26.

16. [Claim 33]: Regarding Claim 33, Greene discloses wherein the controller receives an instant message from the client device via the at least one interface. See Claim 27.

17. [Claim 35]: Regarding Claim 35, Greene discloses wherein the controller stores a score for the test in the storage device. See Claim 29.

18. [Claim 36]: Regarding Claim 30, Greene discloses wherein the test is developed by a test developer and wherein the apparatus is operated by a different entity from the test developer. See Claim 30.

19. [Claim 37]: Regarding Claim 37, Greene discloses wherein the controller receives a request for administration of the test to the remotely located user, establishes a session identification (i.e. session id) for the administration of the test to the remotely located user, and correlates the test question timing data to the administration of the test to the remotely located user based on the session identification. See p.3, [0037] and p.4, [0041].

20. [Claim 38]: Regarding Claim 38, Greene discloses wherein the session identification includes a proctor device identifier and wherein the controller outputs the test question timing data to the proctor device based on the proctor device identifier (i.e. indicator of the proctor workstation assigned to monitor the session). See p.3, [0038] and p.4, [0041].

21. [Claim 39]: Regarding Claim 39, Greene discloses a storage device, wherein the controller stores an indicator of a number of test takers for the test in the storage device and bills a test developer based on the number of test takers for the test. See Claim 33.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3,23-25,28,34, and 47-49 are under 35 U.S.C. 103(a) as being unpatentable over Remschel in view of Turner et al. (US 6,633,742).**

1. [Claims 1,23,28,34,47,49]: Regarding Claims 1,23, 28, 34, 47, and 49, Remschel discloses identifying presentation of test questions on the data processing system. See Col.2: 17-22. Remschel discloses monitoring test question timing data in which the test question timing data represents. See Col.2: 33-39. Remschel discloses an elapsed time since an answered question from the test question has been presented (i.e. the elapsed time since the start of the current question). See Col.12: 55-63. Remschel discloses a bus system (i.e. connecting cable) and a communications unit connected to the bus system (i.e. communication router). See FIG. 1. Memory including a set of instructions would have been an inherent feature of Remschel's invention.

Remschel does not disclose expressly generating an alert (i.e. notifying the user) after the test question timing data exceeds a threshold. However, Turner teaches generating an alert after timing data exceeds a threshold in Col.21: 8-12. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate into the method and system of Remschel generating an alert after the test

question timing data exceeds a threshold, in light of the teaching of Turner, in order to inform the user of a task that needs to be performed.

2. [Claims 2,24,48]: Regarding Claims 2,24, and 48, Remschel discloses wherein the monitoring step is performed by a proctor device or a program on the data processing system (i.e. companion software). See Col.8: 58-61.

3. [Claims 3,25]: Regarding Claims 3 and 25, Remschel does not disclose expressly wherein the program is an applet. However, Turner teaches in Col.17: 35-38. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate an applet into the method and system of Remschel, in light of the teaching of Turner, in order to display a graphic user interface.

**Claims 4-5,26-27, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Remschel/Turner as applied to claims 1,23, and 47 above, and further in view of Walker (US 6,093,026).**

1. [Claims 4,26]: Regarding Claims 4 and 26, Remschel/Turner does not disclose expressly billing a client for monitoring the presentation of test questions (i.e. billing information). However, Walker teaches such in Col.4: 33-40. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate into the method and system of Remschel/Turner billing a client for monitoring the presentation of test questions, in light of the teaching of Walker, in order to charge the client for tests conducted on its behalf.

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2. [Claims 5,27,50]: Regarding Claims 5, 27, and 50, Remschel/Turner does not disclose expressly storing an identification of a number of test takers for the test; and billing a client based on the number of test takers for the test. However, Walker teaches billing a client for surveys conducted on its behalf in Col.4: 33-39. It is obvious that the charge to the client would have been somehow determined by the quantity of surveys administered. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill to incorporate the aforementioned limitation into the method and system of Remschel/Turner, in light of the teaching of Walker, in order to specify how the client is to be charged for tests conducted on its behalf.

**Claims 11 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene in view of Turner et al. (U.S. 6,633,742). Examiner is aware that this rejection may not stand under 35 U.S.C. 103(c).**

[Claims 11,34]: Regarding Claims 11 and 29, Greene does not disclose expressly alerting the remotely located user when the test question timing data exceeds a predetermined threshold. However, Turner teaches generating an alert after timing data exceeds a threshold in Col.21: 8-12. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate into the method and system of Greene generating an alert after the test question timing data exceeds a threshold, in light of the teaching of Turner, in order to inform the user of a task that needs to be performed.

**Claims 19-20 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene in view of Agmoni (US 2002/0010626). Examiner is aware that this rejection may not stand under 35 U.S.C. 103(c).**

[Claims 19-20,42-43]: Regarding Claims 19-20 and 42-43, Greene does not disclose expressly generating an alert profile for the remotely located user for a particular test based on a data profile associated with the remotely located user and transmitting an alert (e.g. personalized advertising) to the remotely located user based on the generated alert profile. However, Agmoni teaches such the Abstract and on p.4, [0063]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into Greene, in light if the teaching of Agmoni, in order to provide personalized messaging.

**Claims 21 and 44 rejected under 35 U.S.C. 103(a) as being unpatentable over Greene/Agmoni as applied to Claims 19 and 42 above, and further in view of Dattatri (US 2002/0049815). Examiner is aware that this rejection may not stand under 35 U.S.C. 103(c).**

[Claims 21,44]: Regarding Claims 21 and 44, Greene does not disclose expressly storing a response from the remotely located user to update the alert profile for use in future tests. However, Dattatri teaches such on p.11, [0103]-[0104]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Greene/Agmoni, in light of the teaching of Dattatri, in order to reflect changes to the

alert profile. The intended use “for use in future tests” does not further limit the invention as claimed.

**Claims 22 and 45 rejected under 35 U.S.C. 103(a) as being unpatentable over Greene in view of Thomas (US 5,618,182). Examiner is aware that this rejection may not stand under 35 U.S.C. 103(c).**

[Claims 22,45]: Regarding Claims 22 and 45, Greene does not disclose expressly storing of the timing data for the test question to update timing data for the remotely located user. However, Thomas teaches such in Table 1 (Col.6). The intended use “for use in future tests” does not further limit the invention as claimed. Therefore, at the time of the invention, it would have been obvious tone of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Greene, in light of the teaching of Thomas, in order to help user monitor his/her performance.

#### **Citation of Pertinent Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Curry et al. (US 3,922,665)
  - alarm bell given when no response is made within a given interval after a stimulus is initiated
- Samph et al. (US 5,204,813)

- timekeeping program
- Samph et al. (US 5,204,813)
  - timekeeping program
- Hoehn-Saric et al. (US 5,915,973)
  - remotely-proctored exams
- Freeman et al. (US 6,301,462)
  - tracking expired time

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. Therefore, this action is made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Chanda L. Harris  
Examiner  
Art Unit 3714